UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,748	03/13/2001	Srinivas Gutta	US 010064	2712

24737 7590 02/29/2008
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
FLETCHER, JAMES A	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SRINIVAS GUTTA, KAUSHAL KURAPATI,
and ANTONIO COLMENAREZ

Appeal 2007-2926
Application 09/805,748
Technology Center 2600

Decided: February 29, 2008

Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT, and SCOTT R. BOALICK, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1, 2, 4-10, 14-32, 34-40, and 44-60. Claims 3, 11-13, 33, and 41-43 have been indicated by the Examiner to be allowable subject to being rewritten in independent form. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' claimed invention relates to the processing of video source frames which are received and executed by a processing device. During the execution of the video source frames, a key frame subset of the video source frames is extracted in accordance with a stored frame extraction algorithm. The key frame extraction is terminated prior to the completion of the video source frame execution enabling a user to review the extracted key frames and make a determination as to whether to watch the remainder of the video source frames. (Specification 1-2).

Claim 1 is illustrative of the invention and reads as follows:

1. A method for processing video source frames within a display device, comprising:

employing a video processing system (VPS) as part of the display device that includes a processor, a memory structure, and a video input device, wherein the processor is coupled to the memory structure and to the video input device;

inputting video source frames from a video source into the VPS through the video input device;

executing the video source frames, by the processor;

dynamically and non-contiguously extracting key frames from the video source frames during the executing, said extracting implemented in accordance with a frame extraction algorithm that is stored in the memory structure and executed by the processor;

storing the extracted key frames in a first memory of the memory structure; and

terminating extracting key frames prior to completion of said executing of the video source frames.

The Examiner relies on the following prior art references to show unpatentability:

Dimitrova	US 6,137,544	Oct. 24, 2000
Martino	US 6,473,095 B1	Oct. 29, 2002 (filed Jul. 16, 1998)

Claims 1, 2, 4-10, 14-32, 34-40, and 44-60, all of the appealed claims, stand rejected under 35 U.S.C § 102(e) as being anticipated by Martino (which incorporates by reference the disclosure of Dimitrova).[1]

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed waived [see 37 C.F.R. § 41.37(c)(1)(vii)].

[1] The Examiner has apparently inadvertently omitted dependent claims 18 and 48 from the statement of the grounds of rejection (Ans. 4) since these claims are discussed in the Examiner's detailed analysis of the rejection (Ans. 7-8).

ISSUE

Under 35 U.S.C § 102(e), does Martino (including the incorporated by reference Dimitrova) have a disclosure which anticipates the invention set forth in appealed claims 1, 2, 4-10, 14-32, 34-40, and 44-60?

PRINCIPLES OF LAW

It is axiomatic that anticipation of a claim under § 102 can be found if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.,* 730 F.2d 1452, 1458 (Fed. Cir. 1984).

In rejecting claims under 35 U.S.C. § 102, a single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed. Cir. 1999) ("In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.") (internal citations omitted).

ANALYSIS

With respect to the 35 U.S.C. § 102(e) rejection of independent claims 1 and 31 based on Martino (and the incorporated by reference Dimitrova), the Examiner indicates (Ans. 15-17) how the various limitations are read on the disclosure of Martino/Dimitrova. In particular, the Examiner directs attention to the portions of the disclosure of Dimitrova at column 3, lines 17-18, lines 23-28 and lines 39-42 as well as the illustration at Figure 2A of Dimitrova.

Appellants' arguments in response assert that the Examiner has not shown how each of the claimed features is present in the disclosure of Martino/Dimitrova so as to establish a prima facie case of anticipation. Appellants' arguments (App. Br. 6-7; Reply Br. 4) focus on the contention that, in contrast to the claimed invention, the relied upon disclosure of Dimitrova does not provide for the termination of key frame extraction prior to the completion of the execution of the video source frames, a feature present in each of the appealed independent claims 1 and 31.

After reviewing the disclosure of Dimitrova in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs. Our interpretation of the disclosure of Dimitrova coincides with that of Appellants, i.e., while Dimitrova discloses (col. 3, ll. 40-43) that later additions can be made to a partially created video index if the recording capacity of a tape or file is not filled in a particular recording session, this does not satisfy the requirements of appealed claims 1 and 31.

We do not necessarily disagree with the Examiner's contention (Ans. 11) that the termination of a recording session before it is completed would also terminate the extraction of key frames, but we do not find any disclosure in the cited portion of Dimitrova, or elsewhere in the document, that this is taking place. To the contrary, we agree with Appellants (Reply Br. 4) that the skilled artisan would recognize from the disclosure of Dimitrova (col. 3, ll. 40-43) only a factual situation in which a completed recording session, i.e., all of the source video frames have been executed, has filled only a portion of the capacity of a tape or file. The partial video index created during this completed recording session can then be added to in later recording sessions until the recording capacity of the tape or file is filled. As such, we simply find no disclosure in Dimitrova which would satisfy the recited limitations of appealed independent claims 1 and 31, each of which requires that key frame extraction be terminated prior to the completion of the source video frame execution.

In view of the above discussion, since all of the claim limitations are not present in the disclosure of Martino/Dimitrova, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of independent claims 1 and 31, nor of claims 2, 4-10, 14-30, 32, 34-40, and 44-60 dependent thereon.

CONCLUSION

In summary, we have not sustained the Examiner's 35 U.S.C. § 102(e) rejection of any of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1, 2, 4-10, 14-32, 34-40, and 44-60 is reversed.

REVERSED

eld

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510